



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Minutes CITY COUNCIL

*R. Steve Tumlin, Mayor*  
*Annette Paige Lewis, Ward 1*  
*Griffin "Grif" L. Chalfant, Jr., Ward 2*  
*Johnny Sinclair, Ward 3*  
*G. A. (Andy) Morris, Ward 4*  
*Rev. Anthony C. Coleman, Ward 5*  
*James W. King, Ward 6*  
*Philip M. Goldstein, Ward 7*

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Wednesday, August 8, 2012

7:00 PM

Council Chamber

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**Presiding:** R. Steve Tumlin, Mayor

**Present:** Annette Lewis, Grif Chalfant, Johnny Sinclair, G. A. (Andy) Morris,  
Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

***Also Present:***

*William F. Bruton, Jr. City Manager*

*Gregg Litchfield, Assistant City Attorney*

*Stephanie Guy, City Clerk*

### CALL TO ORDER:

*Mayor R. Steve Tumlin called the meeting to order at 7:05 p.m.*

### INVOCATION:

*Mayor Tumlin called upon Council member Grif Chalfant to give the invocation.*

### PLEDGE OF ALLEGIANCE:

*Mayor Tumlin asked everyone to remain standing for the pledge of allegiance.*

### PRESENTATIONS:

**20120778**

**Marietta High School Football Team**

Coach Scott Burton introduced the 2012-2013 senior players of the Marietta High School Football Team.

**Recognized**

**PROCLAMATIONS:****20120680 Proclamation - Ann Rutherford Day**

Proclamation to declare November 2nd (Ann's birthday) as Ann Rutherford Day in Marietta.

**Read**

**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****20120751 Scheduled Appearance - Kristen Picken**

Resident at 413 Talcott Circle (Ward 4). Speaking to council about "backyard poultry."

**Present**

**UNSCHEDULED APPEARANCES:**

*Larry Willis, who resides at 60 Oakmont, spoke regarding the ending FY2012 budget, the FY2013 budget and the employee health clinic.*

**CONSENT AGENDA:**

**Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).**

*Mayor Pro tem, Grif Chalfant, called upon Council member Johnny Sinclair, to preside over this portion of the meeting. Council member Sinclair briefly explained the consent agenda process.*

*A motion was made by Council member Goldstein, seconded by Council member King, to suspend the rules of order to add and approve the following items on the consent agenda, as necessary:*

- Presentation by Coach Scott Burton to introduce the 2012-2013 senior players of the Marietta High School Football Team.*
- Motion to authorize the acquisition of property located at 825 Powder Springs Street owned by TEG Springs Landing, LLC by means of eminent domain.*
- Appointment of Martin Kendall to the Historic Preservation Commission Ward 7.*
- Motion to authorize advertisement of the proposed annexation and rezoning of all the properties within Bellemeade Farms Subdivision on Bellemeade Farms Road.*

*The motion carried by the following vote:*

*Vote: 7 - 0 - 0*

*Approved*

*-under City Council Appointments: Agenda item 20120682 was amended to remove the appointment of Cassandra Buckalew, Marietta Trolley Company, to represent the merchants in the downtown area.*

*-under Other Business: Agenda item 20120141 was added to the consent agenda and amended to read, "Motion to approve the Variance request as follows:  
V2012-11 [VARIANCE] ROY W. MERTZ request variance for property located in Land Lot 07260, District 17, Parcel 0010 and being known as 2265 Kingston Court.  
1. Contingent on the compliance with Number 3 below, a variance is approved to allow two (2) abandoned, nonconforming pylon signs to remain until August 8, 2013 – one located at the northeast corner of the property near I-75, and one located at the southeast corner of the property, near the intersection of Delk Road and I-75, as indicated on the attached aerial photograph labeled Exhibit A, and identified as Sign #1 and Sign #2; neither sign face shall be increased or changed in shape.  
2. Contingent on the compliance with Number 3 below, the applicant agrees to repair and restore Sign #1 and Sign #2 to good condition within 90 days of approval of the variance; neither sign face shall be increased or changed in shape.  
3. All other illegal and/or abandoned signs on the site would be removed within 60 days of approval of the decision.*

*-under Other Business: Agenda item 20120774 was added to the consent agenda. Parcel 21 - Powder Springs Street.*

*Assistant City Attorney Gregg Litchfield noted that there were no items on the consent agenda requiring a public hearing.*

**A motion was made by Council member King, seconded by Council member Coleman, to approve the consent agenda as modified. The motion carried by the following vote:**

**Vote: 7 - 0 - 0                      Approved**

## **MINUTES:**

**\*      20120724      Regular Meeting - July 11, 2012**

Review and approval of the July 11, 2012 regular meeting minutes.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**\*      20120725      Special Meeting - July 25, 2012**

Review and approval of the July 25, 2012 special meeting minutes.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**MAYOR'S APPOINTMENTS:****CITY COUNCIL APPOINTMENTS:**

- \*     **20120727**           **Board of Lights and Water Appointment - Resident Member**
- Motion to extend the term of Charles "Chuck" George on the Board of Lights and Water (Resident Member) for sixty (60) days from August, 10, 2012.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0**                   **Approved**
- 
- \*     **20120682**           **Vision 20/20 Committee Appointments**
- Motion to approve appointments to the Vision 20/20 Committee to study Marietta Square improvements.
- Kelly Contreras, Marietta Pizza Company, to represent the restaurant operators in the downtown area as defined by the attached map.
- Cassandra Buckalew, Marietta Trolley Company, to represent the merchants in the downtown area as defined by the attached map.
- Motion to approve appointments to the Vision 20/20 Committee to study Marietta Square improvements.*
- Kelly Contreras, Marietta Pizza Company, to represent the restaurant operators in the downtown area as defined by the attached map.*
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0**                   **Approved as Amended**
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- \*     **20120779**           **Historic Preservation Commission Appointment(s)**
- Appointment of Martin Kendall to the Marietta Historic Preservation Commission (Ward 7), for a three year term expiring August 9, 2015
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0**                   **Approved**

**ORDINANCES:**

**20120615**           **Z2012-04 Keith Cristal 85 Atlanta Street**

**Ord 7598**

Z2012-04 [REZONING] KEITH CRISTAL request rezoning for property located in Land Lot 12310, District 16, Parcel 1060, 2nd Section, Marietta, Cobb County, Georgia and being known as 85 Atlanta Street from CBD (Central Business

District) to CBD (Central Business District) with an additional use to allow for auto rental. Ward 5.

*Councilman Philip Goldstein disclosed that Keith Cristal is a tenant of his and or entities that he owns and or has an ownership interest in on Waverly Way (parking), 52-60 Atlanta Street (building), 1535 Rosewood Circle (building), and 48 Atlanta Street (parking). Keith Cristal leases building or parking spaces. Councilman Goldstein does not have any ownership interest in the property (85 Atlanta Street) that is at issue in this matter.*

*Mayor Tumlin opened the public hearing. Assistant City Attorney Gregg Litchfield explained the rules of order and swore in those wishing to speak.*

*Mr. Keith Cristal requested rezoning for property located 85 Atlanta Street from CBD (Central Business District) to CBD (Central Business District) with an additional use to allow for auto rental business. Mr. Cristal specified that vehicles would be rented to customers whose personal vehicle is being repaired at his repair shop.*

*Discussion was held regarding changes to the building and the type of vehicles that would be rented. Mr. Cristal mentioned that there would be no changes to the building other than "cleaning it up". He also agreed that only late model vehicles would be rented.*

*Mayor Tumlin closed the public hearing.*

*A motion was made by Council member King, seconded by Council member Lewis, to approve the rezoning request for property located 85 Atlanta Street from CBD (Central Business District) to CBD (Central Business District) with an additional use to allow for auto rental business. The following stipulation as a condition of zoning: At no time will there be cars to be rented that are more than seven (7) model years old.*

**The motion carried by the following vote:**

**Vote: 4 - 3 - 0**

**Approved as Stipulated**

Voting Against: Johnny Sinclair, G. A. (Andy) Morris and Rev. Anthony Coleman

**20120665**

**Z2012-05 Kolawole Asatola, et al** 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road and 1472 Bellemeade Farms Road

Z2012-05 [REZONING] KOLAWOLE ASATOLA, ET AL request rezoning for property located in Land Lot 01520, District 17, Parcels 0440, 0430, 0420, 0410, 0400 and 0390, 2nd Section, Marietta, Cobb County, Georgia and being known as 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road and 1472 Bellemeade Farms Road from R-15 (Residential 15,000 sq. ft. - County) to R-3 (Single Family Residential 3 units/acre). Ward 3.

*Mayor Tumlin opened the public hearing. Assistant City Attorney Gregg Litchfield swore in those wishing to speak.*

*Mr. Patrick Reese, who resides at 1484 Bellemeade Farms Road, spoke on behalf of several other residents of the subdivision who requested rezoning and annexation into the City. Mr. Reese mentioned that there were several parents in the subdivision who wanted their children to attend Marietta City Schools.*

*Discussion was held regarding the number and ages of the children in the subdivision. There was concern about having the children registered for the upcoming school year, either at Cobb County Schools or Marietta City Schools.*

*Council explained that a motion was added to the consent agenda earlier to authorize advertisement of the proposed annexation and rezoning all of the properties within Bellemeade Farms Subdivision on Bellemeade Farms Road. The purpose would be to rezone and annex the whole neighborhood at one time, as opposed to just a few homes.*

*Mayor Tumlin closed the public hearing.*

**A motion was made by Council member King, seconded by Council member Lewis, that this matter be Tabled. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Tabled**

**20120666**

**A2012-01 Kolawole Asatola et al** 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road, and 1472 Bellemeade Farms Road

A2012-01 [ANNEXATION] Kolawole Asatola et al request annexation for property located in Land Lot 01520, District 17, Parcels 0440, 0430, 0420, 0410, 0400, and 0390, and being known as 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road, and 1472 Bellemeade Farms Road, 2nd Section, Cobb County, Georgia consisting of a total of 2.37 acres. Ward 3.

*Mayor Tumlin opened the public hearing. Seeing no one wishing to speak, the public hearing was closed.*

**A motion was made by Council member King, seconded by Council member Lewis, that this matter be Tabled. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Tabled**

**20120667**

**CA2012-03 Kolawole Asatola, et al** 1492 Bellemeade Farms Road, 1488 Bellemeade Farms Road, 1484 Bellemeade Farms Road, 1480 Bellemeade Farms Road, 1476 Bellemeade Farms Road, 1476 Bellemeade Farms Road, and 1472 Bellemeade Farms Road

CA2012-03[CODE AMENDMENT] in conjunction with the requested annexation of property located in Land Lot 01520, District 17, Parcels 0440, 0430, 0420,

0410, 0400 and 0390, 2nd Section, Marietta, Cobb County, Georgia, the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential). Ward 3.

*Mayor Tumlin opened the public hearing. Seeing no one wishing to speak, the public hearing was closed.*

**A motion was made by Council member King, seconded by Council member Lewis, that this matter be Tabled. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Tabled**

## **RESOLUTIONS:**

### **CITY ATTORNEY'S REPORT:**

### **CITY MANAGER'S REPORT:**

**20120675            Economic Impact Study from Georgia State.**

*City Manager, Bill Bruton, presented information regarding the Economic Impact Study from Georgia State.*

**Presented**

## **MAYOR'S REPORT:**

### **COMMITTEE REPORTS:**

#### **1. Economic/Community Development: Grif Chalfant, Chairperson**

\* **20120663            Section Eight Management Assessment Program (SEMAP) FY2012 Certification**

Approval of a Resolution authorizing the acceptance of the Section Eight Management Assessment Program (SEMAP) certification for FY 2012.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

#### **2. Finance/Investment: Annette Lewis, Chairperson**

\* **20120649            Modification of contract**

Motion to approve modification of the contract between the City of Marietta and the Marietta Welcome Center, Inc., dated June 8, 2011, resulting from a \$2,774.76 funding shortfall at fiscal year-end in the hotel/motel tax account.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

**3. Judicial/Legislative: Philip M. Goldstein, Chairperson**

**\* 20120678**

**Report of Accomplishments/Short Term Work Programs**

Approval of a Resolution to transmit the City of Marietta 5-Year Short Term Work Program 2012 Update to the Comprehensive Plan 2006-2030.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

**\* 20120683**

**Tower Partners, LLC - 819 & 821 Cogburn Avenue**

Motion to revise stipulations from Z2011-04 Tower Partners, LLC, for property located in Land Lot 10140, District 16, Parcels 750 & 760, 2nd Section, Marietta, Cobb County, Georgia and being known as 819 and 821 Cogburn Avenue.

Tower Partners, LLC is requesting to waive the requirement to provide a 6 ft. wooden opaque fence along the northern property line, which was previously included as a stipulation of zoning for Z2011-04 (20110160).

All other conditions and stipulations approved in conjunction with the approval to rezone the property on June 8, 2011, shall remain in full force and effect.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

**\* 20120640**

**Revised Detailed Plan for Manor Park**

Motion to approve the revised detailed plan for Manor Park (received 8/2/12) located in Land Lot 1160, District 16, 2nd Section, Marietta, Cobb County, Georgia. The purpose of this revision is to:

1. Remove the sidewalk around the perimeter of the community recreation island.
2. Remove the segment of sidewalk on the east side of Hunt Street south of Forest Avenue.
3. All other conditions and stipulations of the rezoning shall remain.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**



\*      **20120641      Revised Final Plat for Manor Park**

Motion to approve the revised final plat for Manor Park (received 8/2/12) located in Land Lot 1160, District 16, 2nd Section, Marietta, Cobb County, Georgia.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

\*      **20120621      Kennesaw Avenue Historic District**

Motion to approve request from the Historic Preservation Commission to pursue a locally designated historic district along Kennesaw Avenue.

In accordance with the Historic Preservation Ordinance, that was revised in March 2010, the Historic Preservation Commission is hereby granted approval from the Mayor and City Council to begin the process to pursue a locally designated historic district along Kennesaw Avenue.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**20120528      Alcoholic Beverages General Provisions**

**Ord 7597**      Approval of an Ordinance amending 8-8-2-010 "Definitions" and 8-8-2-195 "Minors - Prohibited practices."

*A motion was made by Council member Coleman, seconded by Council member Chalfant, to approve the ordinance revisions to 8-8-2-010 "Definitions" and 8-8-2-195 C, "It shall be unlawful for any person in charge of, or employed in any place of business that is defined as a "bar" or "lounge", to allow any person under twenty-one (21) years of age to enter or loiter about the premises.*

*A substitute motion was made by Council member Goldstein, seconded by Council member King, to move forward with the ordinance revisions to 8-8-2-010 "Definitions" and 8-8-2-195 C, "It shall be unlawful for any person in charge of, or employed in any place of business that is defined as a "bar" or "lounge", to allow any person under eighteen (18) years of age to enter or loiter about the premises. This provision shall not apply to any person employed and on duty in such place of business."*

*Discussion was held regarding those under the age of 18 years old who are currently employed in such places. The first motion would not allow those under the age of 18 to be employed or on duty in such places.*

*A substitute motion was made by Council member Chalfant, seconded by Council member Coleman, to move forward with the ordinance revisions to 8-8-2-010 "Definitions" and 8-8-2-195 C, "It shall be unlawful for any person in charge of, or employed in any place of business that is defined as a "bar" or "lounge", to allow*

*any person under twenty-one (21) years of age to enter or loiter about the premises. This provision shall not apply to any person employed and on duty in such place of business." The motion failed by the following vote:*

*Vote: 5 - 2 - 0*

*Failed*

*Voting Against: Annette Lewis, Johnny Sinclair, G. A. (Andy) Morris, Jim King, and Philip M. Goldstein*

*Mayor Tumlin called for a vote on the substitute motion made by Council member Goldstein, seconded by Council member King, to move forward with the ordinance revisions to 8-8-2-010 "Definitions" and 8-8-2-195 C, "It shall be unlawful for any person in charge of, or employed in any place of business that is defined as a "bar" or "lounge", to allow any person under eighteen (18) years of age to enter or loiter about the premises. This provision shall not apply to any person employed and on duty in such place of business."*

**The motion carried by the following vote:**

**Vote: 5 - 2 - 0**

**Approved**

Voting Against: Grif Chalfant and Anthony Coleman

**4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson**

**5. Personnel/Insurance: Grif Chalfant, Vice Chairperson**

**\* 20120679 Property Casualty/Miscellaneous Coverage**

Motion approving the property casualty and other miscellaneous coverage, premiums and companies utilized for the policy period of August 15, 2012 to August 14, 2013.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**6. Public Safety Committee: Anthony Coleman, Chairperson**

**7. Public Works Committee: Jim King, Chairperson**

**\* 20120696 Hidden Driveway Sign at Bouldercrest Drive**

Motion authorizing Public Works to install "Hidden Driveway" signs along Bouldercrest Drive in the vicinity of Banks Street.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**APPEARANCES:****OTHER BUSINESS:****\* 20120141 V2012-11 Roy W. Mertz 2265 Kingston Court**

V2012-11 [VARIANCE] ROY W. MERTZ request variance for property located in Land Lot 07260, District 17, Parcel 0010 and being known as 2265 Kingston Court.

1. Contingent on the compliance with Number 3 below, a variance is approved to allow two (2) abandoned, nonconforming pylon signs to remain until August 8, 2013 - one located at the northeast corner of the property near I-75, and one located at the southeast corner of the property, near the intersection of Delk Road and I-75, as indicated on the attached aerial photograph labeled Exhibit A, and identified as Sign #1 and Sign #2.
2. Contingent on the compliance with Number 3 below, the applicant agrees to repair and restore Sign #1 and Sign #2 to good condition within 60 days of approval of the variance.
3. All other illegal and/or abandoned signs on the site would be removed within 60 days of approval of the decision.

*Motion to approve the Variance request as follows:*

*V2012-11 [VARIANCE] ROY W. MERTZ request variance for property located in Land Lot 07260, District 17, Parcel 0010 and being known as 2265 Kingston Court.*

1. *Contingent on the compliance with Number 3 below, a variance is approved to allow two (2) abandoned, nonconforming pylon signs to remain until August 8, 2013 – one located at the northeast corner of the property near I-75, and one located at the southeast corner of the property, near the intersection of Delk Road and I-75, as indicated on the attached aerial photograph labeled Exhibit A, and identified as Sign #1 and Sign #2; neither sign face shall be increased or changed in shape.*
2. *Contingent on the compliance with Number 3 below, the applicant agrees to repair and restore Sign #1 and Sign #2 to good condition within 90 days of approval of the variance; neither sign face shall be increased or changed in shape.*
3. *All other illegal and/or abandoned signs on the site would be removed within 60 days of approval of the decision.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

**20120668 V2012-28 QuikTrip Corporation 720 Powder Springs Street**

V2012-28 [VARIANCE] QUIK TRIP CORPORATION request variances for property located in Land Lot 01470, District 17, Parcel 1460 and being known as 720 Powder Springs Street. Variance to increase the maximum front setback

from 75' to 172.'; Variance to reduce the required landscape strip width on a portion of Fairgate Road from 10' to 8.73.'; Variance to reduce the required landscape strip width along Fairgate Road from 10' to 5.75' for a parking space encroachment; Variance to reduce the required setback for a fuel storage tank from 20' to 8.'; Variance to increase the allowable height for a monument sign on Powder Springs Street from 15' to 17.3.'; Variance to increase the allowable height for a monument sign on Chestnut Hill Road from 10' to 10'8 ½. Ward 3.

*Councilman Philip Goldstein disclosed that Bill Hageman is a tenant of his at 120 South Park Square. Mr. Hageman leases office space. Councilman Goldstein does not have any ownership interest in the property (720 Powder Springs Street) that is at issue in this matter.*

*Development Services Director Brian Binzer presented information regarding the variance request for property being known as 2195 Cobb Parkway South. Mr. Binzer also summarized the criteria for which variance requests should be considered.*

*Mr. Richard Calhoun, attorney for the applicant, requested variances for property located at 720 Powder Springs Street for the purpose of building a new QuikTrip location. Mr. Calhoun presented a summary of the variances, conditions to the variances, renderings of the proposed building and revised site plan.*

*Discussion was held regarding the requested variances, the height of the monument sign and allowed uses of the property. The applicant agreed to reduce the height of the sign and prohibit several allowed uses for the property.*

*A motion was made by Council member King, seconded by Council member Sinclair, to approve V2012-28 [VARIANCE] Quik Trip Corporation variance request for property located at 720 Powder Springs Street, as follows:*

- 1. Variance to eliminate the maximum 75' front setback;*
- 2. Variance to reduce the required landscape strip width on a portion of Fairgate Road from 10' to 8.73.' as delineated on the site plan revised July 6, 2012;*
- 3. Variance to reduce the required landscape strip width along Fairgate Road from 10' to 5.75' for a parking space encroachment as delineated on the site plan revised July 6, 2012;*
- 4. Variance to reduce the required setback for a fuel storage tank from 20' to 8';*
- 5. Variance to increase the allowable height for a monument sign on Powder Springs Street from 15' to 16'4";*
- 6. Variance to increase the allowable height for a monument sign on Chestnut Hill Road from 10' to 10'8 ½";*
- 7. Approval of this site specific plan does not grant permission to encroach on the City's easements.*
- 8. The applicant agrees that the following uses will be excluded from the list of permitted uses for this property: adult bookstore, adult business, adult dancing establishment, adult motion picture theater, adult hotel or motel, adult minimotion picture theater, adult motion picture arcade, adult video store, erotic dance establishment, encounter center or rap establishment, and escort bureau.*

**The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved as Amended**

\* **20120744**

**Motion to approve changing AWS meeting time**

Motion to approve changing the Monday, November 12, 2012, meeting time to 3:00 p.m.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**20120766**

**308 N. Fairground Street**

Motion approving settlement of the case of City of Marietta v. SHH Partners, LP, Case Number 10-1-04557-42, with the address of 308 N. Fairground Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$35,000.00 in compensation, which is an additional \$15,890.00 over the City's original payment into the Registry of the Court.
2. The City issues check for \$15,890.00 in additional compensation directly to SHH Partners, LP, (SHH Partners own property free and clear).
3. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

*A motion was made by Council member Goldstein to approve the settlement of the case related to 308 N. Fairground Street, with the removal of item 3 that reads, "This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney."*

*The motion failed for lack of a second.*

*A motion was made by Council member King, seconded by Council member Chalfant, to approve the settlement of the case related to 308 N. Fairground Street as presented.*

*A substitute motion was made by Council member Goldstein to approve the settlement of the case related to 308 N. Fairground Street, with item 3 amended to read, "This motion also includes any other stipulations as approved by the Director of Public Works, the City Attorney and the City Manager."*

*The motion failed for lack of a second.*

*Discussion was held regarding settlement offers related the acquisition of multiple properties along North Fairground Street. Council member Goldstein expressed concern regarding the language at the end of several of the motions that reads, "This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney." City Attorney previously explained that this language would allow for flexibility for minor changes that may be needed for settlement.*

*Mayor Tumlin called for a vote on the motion made by Council member King, seconded by Council member Chalfant, to approve the settlement of the case related to 308 N. Fairground Street as presented.*

**The motion passed by the following vote:**

**Vote: 5 – 2 – 0**

**Approved**

Voting Against: Annette Lewis and Philip M. Goldstein

**20120767**

**316 N. Fairground Street**

Motion approving settlement of the case of City of Marietta v. Edward R. Ruddell, Jr., Case Number 10-1-04518-42, with the address of 316 N. Fairground Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$5,000.00 in compensation, which is the City's original payment into the Registry of the Court.
2. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

**A motion was made by Council member King, seconded by Council member Chalfant, that this matter be Approved. The motion carried by the following vote:**

**Vote: 5 – 2 – 0**

**Approved**

Voting Against: Annette Lewis and Philip M. Goldstein

**20120768**

**354 N. Fairground Street**

Motion approving settlement of the case of City of Marietta v. Ron McNeil and E.R. Ruddell, Jr., Case Number 10-1-04520-42, with the address of 354 N. Fairground Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$3,500.00 in compensation, which is the City's original payment into the Registry of the Court.
2. The City installs a 2 car parking pad.
3. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

**A motion was made by Council member King, seconded by Council member Chalfant, that this matter be Approved. The motion carried by the following vote:**

**Vote: 5 – 2 – 0**

**Approved**

Voting Against: Annette Lewis and Philip M. Goldstein

**20120769****504/506 Birney Street**

Motion approving settlement of the case of City of Marietta v. Mary Ruddell Coulter Family Limited Partnership, Case Number 10-1-04559-42, with the address of 504/506 Birney Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$20,250.00, which is the City's original payment into the Registry of the Court.
2. The City installs a commercial driveway apron on N. Fairground (as offered by the City in April 2012).
3. The City agrees to assist the owner with the application to the Board of Zoning Appeals for a variance of the fence setback to allow fencing within 1 foot from the sidewalk/ROW (as offered by the City in April 2012).
4. The City increases dimensions of parking pad previously constructed by the City as replacement for parking pad removed by the City, on property to comply with zoning ordinance (per discussion between Dan Conn and Ed Ruddell on July 30, 2012).
5. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

**A motion was made by Council member King, seconded by Council member Chalfant, that this matter be Approved. The motion carried by the following vote:**

**Vote: 5 – 2 – 0****Approved**

Voting Against: Annette Lewis and Philip M. Goldstein

**20120770****505/507 Birney Street**

Motion approving settlement of the case of City of Marietta v. E.R. Ruddell, Jr., Case Number 10-1-04516-42, with the address of 505/507 Birney Street, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$20,800.00, which is the City's original payment into the Registry of the Court.
2. The City conveys right of way to E.R. Ruddell, Jr. per the attached drawing and such conveyance shall be by Quitclaim Deed as an exchange of property.
3. The City agrees to assist owner with the application to the Board of Zoning Appeals for a variance, if required, to install additional gravel parking to increase the dimensions of the existing gravel parking pad.
4. The City agrees to assist owner with application to the Board of Zoning Appeals for a variance of the fence setback to allow fencing within 1 foot from sidewalk/ROW.
5. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

**A motion was made by Council member King, seconded by Council member Chalfant, that this matter be Approved. The motion carried by the following vote:**

**Vote: 5 – 2 – 0**

**Approved**

Voting Against: Annette Lewis and Philip M. Goldstein

**20120771**

**508/510 Morningside Drive**

Motion approving settlement of the case of City of Marietta v. Phillip A. Thomas, Jr. and Edward R. Ruddell, Jr., Case Number 10-1-04560-42, with the address of 508/510 Morningside Drive, Marietta, Georgia is hereby granted with the following conditions and stipulations:

1. The amount of \$19,900.00 in compensation, which is the City's original payment into the Registry of the Court.
2. The City agrees to assist the owners with application to the Board of Zoning Appeals for variance of fence setback to allow fencing within 1 foot from the sidewalk/ROW.
3. This motion also includes any other stipulations as approved by the Director of Public Works and the City Attorney.

**A motion was made by Council member King, seconded by Council member Chalfant, that this matter be Approved. The motion carried by the following vote:**

**Vote: 5 – 2 – 0**

**Approved**

Voting Against: Annette Lewis and Philip M. Goldstein

**\* 20120774**

**Parcel 21 - Powder Springs Street**

Motion to authorize the acquisition of property owned by Michael P. Good and Gail Harris on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

**\* 20120775**

**825 Powder Springs Street**

Motion to authorize the acquisition of property owned by TEG Springs Landing, LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated



herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**\*        20120780                      Bellemeade Farms Subdivision (Bellemeade Farms Road) Island Annexation**

Motion to authorize advertisement of the proposed annexation and rezoning of the properties within Bellemeade Farms Subdivision on Bellemeade Farms Road, located in Land Lots 01370, 01520 and 01530, 17th District, of Cobb County, Georgia, which currently constitutes a portion of an unincorporated island as defined by the State of Georgia, Code Section 36-36-92.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**\*        20120726                      BLW Actions of the August 6, 2012**

Review and approval of the August 6, 2012 actions and minutes of the Marietta Board of Lights and Water.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**UNSCHEDULED APPEARANCES:**

**ADJOURNMENT:**

*The meeting was adjourned at 9:20 p.m.*

**Date Approved:        09/12/2012**

\_\_\_\_\_  
**R. Steve Tumlin, Mayor**

Attest: \_\_\_\_\_  
**Stephanie Guy, City Clerk**